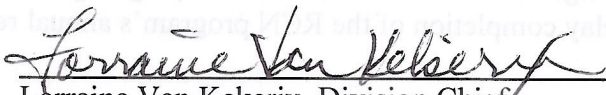


REQUEST FOR ACTION

To: Ted Rauh, Program Director
Waste Compliance and Mitigation Program

From: 
Lorraine Van Kekerix, Division Chief
Compliance Evaluation and Enforcement Division

Request Date: April 20, 2010

Decision Subject: Concurrence with Penalty Process for Late Certifications in the Recycled-Content Newsprint Program

Action By: April 27, 2010

Summary of Request:

This is a request that the Program Director concur with staff action to assess penalties on Newsprint Consumers who did not file the 2009 Newsprint Consumer Certification on time.

Background:

Under California's Recycled-Content Newsprint (RCN) Program, every commercial printer and publisher doing business in California is required to certify its annual use of newsprint to the State (Public Resources Code Section 42750 et seq.). Printers and publishers filing the certification 45 or more days late will be assessed a \$500.00 civil penalty, and those filing more than 90 days late or not at all will be assessed a \$1,000.00 civil penalty (14 CCR Section 17974).

Per our annual process, in January 2010 staff sent a certified mailing (Attachment 1) to all 168 known and active commercial publishers and printers notifying them of the March 1, 2010 due date for the 2009 Newsprint Consumer Certification and providing them a copy of the certification form. On February 16, 2010, staff mailed a reminder letter (Attachment 2) to those who had not yet submitted their certifications, and on April 1, 2010 staff mailed a second reminder including details about the penalties for late filings (Attachment 3). Staff also contacted, on several occasions, the firms via phone and/or email to remind them of the 45-day deadline. By the 45-day deadline (April 15), and after giving a short grace period, staff has received 162 responses and certifications. Staff is now working with the Department's Accounting unit to request they send the penalty invoices to the six (6) firms with outstanding certifications as of April 20, 2010.

Upon approval of this Request for Action, Accounting will send out the 45-day late penalty invoices with the program-drafted cover letter (Attachment 4) reminding the identified firms (Attachment 5) to also submit their certifications to program staff before the 90-day penalty deadline of May 31, 2010. Staff is scheduled to provide at least one (1) courtesy reminder to

these firms later in May 2010, if needed, to submit their certifications and avoid the additional \$500 penalty for filing more than 90 days late. Staff will also request that Accounting proceed with its standard follow-up notices for any unpaid 45-day penalties.

The late certifications create significant extra work for staff trying to gather and compile the newsprint usage data, and delay completion of the RCN program's annual report.

Recommendation:

After staff's extensive efforts to contact the six (6) California printers and publishers about their annual newsprint certification, staff recommends that the Department move forward with enforcement action and assess a \$500.00 civil penalty on the following printers and publishers:

1. American Chinese Times*
2. Armijo Newspapers/MD News*
3. Brentwood Media Group*
4. Korea Central Daily*
5. Los Angeles Sentinel*
6. Santa Barbara News Press

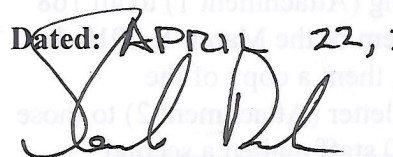
* In 2009, program staff identified this printer or publisher as needing to comply. This is the first report they were required to submit.

Program Director Action:

On the basis of the information, analysis and findings of the Newsprint Program staff, I hereby concur with the recommendation that the Department assess a \$500.00 civil penalty on the printers and publishers that are now beyond the 45 day grace period, and have yet to file their annual certification.

I also direct that staff process and assess any additional civil penalties, allowed under 14 CCR Section 17974, on those printers and publishers that file more than 90 days late or not at all.

Dated: APRIL 22, 2010



Ted Rauh, Program Director
Waste Compliance and Mitigation Program
Department of Resources Recycling and Recovery

Attachments:

1. January 6, 2010 letter to Newsprint Consumers
2. February 16, 2010 reminder to Newsprint Consumers
3. April 1, 2010 reminder to Newsprint Consumers
4. April 2010 invoice cover letter to late Certification filers



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

January 6, 2010

Subject: 2009 Recycled-Content Newsprint Certification

Dear Newsprint Consumer:

Our records indicate that your company is required to participate in the State of California's Recycled-Content Newsprint (RCN) Program. Under this program, every commercial printing and publishing enterprise located in California must certify its annual use of newsprint for printing (not for packaging or maintenance purposes) to the State by March 1 of each year.

Enclosed is a copy of the Newsprint Consumer Certification Form ("CIWMB 430") for you to complete for calendar year 2009. This form can also be accessed electronically at www.calrecycle.ca.gov/BuyRecycled/Newsprint/.

Note that you must complete, sign and file the certification form whether or not you used newsprint for printing during 2009. If you did print on newsprint, please complete all applicable sections of the form and sign it. If you did not print in California, or did not use any newsprint for printing in California, just complete and sign Section I of the form. In either case, your completed certification form must be returned by **Monday, March 1, 2010**, by fax to (916) 319-7779 or by mail to the program's direct address as follows (not to the general headquarters address above):

**Department of Resources Recycling and Recovery
Newsprint Certification Program – Attn: G. Pfost
P.O. Box 4025, MS 10-A-17
Sacramento, CA 95812-4025**

Any person who fails to comply with the statutory requirements of this program, or provides false or misleading information, may be found guilty of an infraction, and/or may be subject to civil penalties (Public Resources Code sections 42790 and 42791). In addition, there is a graduated penalty structure (Title 14, California Code of Regulations (14 CCR), section 17974(b)) for consumers that submit their certifications late or not at all, starting at \$500 for certifications submitted 45 or more days late.

Also note that the program is subject to the provisions of the Public Records Act (PRA) and the Information Practices Act (14 CCR sections 17041 – 17046, available at www.calrecycle.ca.gov/Laws/Regulations/Title14/ch1.htm#ch1a4). If you believe that some or all of the information that you are submitting is confidential, proprietary or a trade secret, you must identify in writing the information that you believe should be maintained as confidential. In addition, you must provide the name, address, and telephone number of the individual to be contacted if the program receives a request for disclosure of or seeks to disclose this information. The PRA regulations provide more details on the process to be followed and criteria to be used if there is a request for this information, and those requirements provide you with an opportunity to explain why the information should remain confidential in the event a request is made.

(OVER)



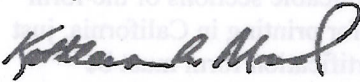
For further information on the RCN Program, please refer to the program's website at www.calrecycle.ca.gov/BuyRecycled/Newsprint/. There you will find links to the program statutes, regulations, 2009 RCN quality standards, the latest RCN suppliers list, frequently asked questions, and recent annual reports.

Finally, program staff request your assistance as follows. To help ensure we have received newsprint usage data for all newspapers and other major publications printed in California, please include with your certification form any updates since last year to the list of newsprint publications included in your certification. Note that this information is for program use only and is considered confidential per 14 CCR 17046(b). Also, if you are aware of any changes to the RCN Suppliers List located on the program's website, please advise us so we can update it.

If you have any questions about the RCN Program requirements or how to complete the RCN certification form, please contact Georgianna Pfost at (916) 324-3474 or Georgianna.Pfost@calrecycle.ca.gov, or me at (916) 341-6475 or Kathy.Marsh@calrecycle.ca.gov. If you feel your company does not meet the definition of a "newsprint consumer" or that you received this letter in error, please let us know immediately.

Thank you for your help in continuing the success of this program.

Sincerely,



Kathleen Marsh, Supervisor
Minimum Content Compliance Section

cc: Georgianna Pfost, RCN Program Coordinator

Enclosure

(OVER)

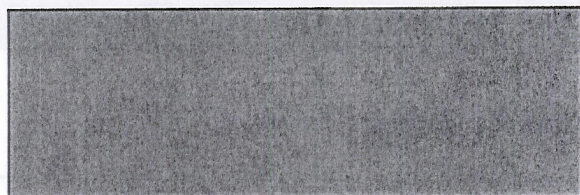
NEWSPRINT CONSUMER CERTIFICATION

California law requires that you certify your newsprint use to the California Integrated Waste Management Board (CIWMB) by March 1 of each year.

Section I – Consumer Information Instructions

- Indicate dates as month/day/year.
- Complete spaces 1 through 12.
- If you did not use newsprint last year, mark space 13 and 15, 16 and/or 17, sign, and return the form.
- If all the newsprint you used last year was bought or contracted before January 1, 1990, complete box 14, sign and return the form.
- If you used any newsprint last year, complete sections II, III, IV, sign and return the form.

Optional questions – numbered page 4 of insert.



Return form to:
Dept. of Resources Recycling and Recovery
ATT: Newsprint Certification Program
P.O. Box 4025
Sacramento, CA 95812

☐ Name or Address Change

Certification Document Number: _____

Section I – Consumer Information

Please type or print legibly in ink and return by mail. Use "N/A" for items which are not applicable.

Report Period: **January 1 through December 31,** _____

Contact person (first name, middle name, last name) (1)	Date (2) ____ / ____ / ____		
Company name (3)	Phone number (4) _____		
Mailing address (5)	City (6)	State (7)	Zip code (8)
Physical address (if different from mailing address) (9)	City (10)	State (11)	Zip code (12)

I did not use any newsprint in my commercial printing or publishing operation during this reporting period. ☐ (13)

I purchased all the newsprint I used before January 1, 1990. ☐ (14)

If applicable, provide the company names and addresses of your newsprint printers _____ _____ _____	I am a: Publisher <input type="checkbox"/> (15)
	Printer <input type="checkbox"/> (16)
	Other _____ <input type="checkbox"/> (17)

Certification Instructions

Certification to be made by:

- **Corporation:** By a responsible corporate officer or manager authorized to make management decisions which govern the operation of the commercial printing or publishing operation.
- **Partnership or sole proprietorship:** By the general partner or the proprietor.
- **Government agency:** By either the principal executive officer or a ranking elected official.

Certification

I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision, that to the best of my knowledge and belief, the information provided is true, accurate and complete. I am aware that there are significant penalties for submitting false information in this certification, including the possibility of fine or imprisonment, or both, for violations.

Signature of individual authorized to sign

Title of authorized person

Typed or printed name of person signing

Date

Phone number

Company Name:

Certification Document Process:

Section II – Newsprint use Instructions

- Complete this section for newsprint used during this reporting period.
- If you meet the 50% recycled newsprint use goal, sign and return the form.
- If you did not meet the recycled newsprint use goal, complete sections III, IV, sign and return the form.
- Recycled-content newsprint means the fiber content contains no less than 40% postconsumer waste paper.
- Please report in metric tons: 2204.6 pounds (LBS) equals one metric ton.

Section II – Percent of Recycled-content Newsprint Used

Total metric tons of all newsprint used this reporting period	(1)
Total metric tons of all newsprint used this reporting period that was purchased after January 1, 1990.	(2)
Total metric tons of recycled-content newsprint used this reporting period that was purchased after January 1, 1990	(3)
Total metric tons of nonrecycled-content newsprint used this reporting period that was purchased after January 1, 1990. (Subtract line 3 from line 2.)	(4)
Percent of recycled-content newsprint used this reporting period. (line 3 divide line 2 x 100) Round to the nearest percent. For example, 24.5% becomes 25%, 24.4% becomes 24%.	(5)

Section III – Exemptions Instructions

- Complete this section if you did not meet the recycled-content newsprint use goal of 50 percent.
- You must keep records to document your claims, but don't send them to the CIWMB at this time.

Section III – Exemptions

Pursuant to California Public Resources Code (PRC) Section 42773 and pertinent California Code of Regulations (CCR) sections, only three conditions exempt a consumer from meeting recycled-content newsprint use requirements for any reporting period. Mark the exemption or exemptions you claim.

The recycled-content newsprint was not available at a comparable price to that of newsprint which is not recycled-content newsprint. See 14 CCR section 17966.	Exemption <input type="checkbox"/> (1) 1
The recycled-content newsprint did not meet the quality standards established by the CIWMB. See 14 CCR section 17964.	Exemption <input type="checkbox"/> (2) 2
The particular grade of recycled-content newsprint would not have been available in a reasonable time. See 14 CCR Section 17968.	Exemption <input type="checkbox"/> (3) 3

Explain specific reasons:

Company Name:

Certification: Document Number

Section IV – Good Faith Certification Instruction

- Complete this section if you did not meet the recycled-content newsprint goal of 50 percent.
- Use the section on page 3 if you need more space and insert into the form before mailing.

Section IV – Good Faith Certification

In order to make your certification of exemption in good faith, list all newsprint suppliers or producers with whom you had purchase discussions or who offered to sell you recycled-content newsprint within the preceding 12 months. See PRC Section 42773.

Name of Operation (1)	Contact Person (2)	Phone number (3)	
Mailing address (4)	City (5)	State (6)	Zip (7)
Name of Operation (1)	Contact Person (2)	Phone number (3)	
Mailing address (4)	City (5)	State (6)	Zip (7)
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Mailing address (4)	City (5)	State (6)	Zip (7)
Name of Operation (1)	Contact Person (2)	Phone number (3)	
Mailing address (4)	City (5)	State (6)	Zip (7)

Company Name:

Certification: Document Number

Optional Questions Instructions

- This section is optional.
- We are collecting information on the transfer of newsprint.
- Copy the section before you complete it if you need more space.

Optional Questions

To help us accurately assess the reliability and validity of the information contained in this certification and to determine if modifications to the regulations may be necessary, we would appreciate your completing this section.

	Yes	No
(1) Have you sold newsprint to another consumer in the last five years?	<input type="checkbox"/>	<input type="checkbox"/>
(2) Have you traded newsprint with another consumer in the last five years?	<input type="checkbox"/>	<input type="checkbox"/>
(3) Average transactions per year?		
(4) Average metric tons per transaction?		
To whom have you sold or traded newsprint in the last five years?		
Name (5)	Date (6)	Metric tons (7) Grade (8)
Address (9)	City (10)	State(11) Zip (12)
Name (5)	Date (6)	Metric tons (7) Grade (8)
Address (9)	City (10)	State(11) Zip (12)
Name (5)	Date (6)	Metric tons (7) Grade (8)
Address (9)	City (10)	State(11) Zip (12)
Name (5)	Date (6)	Metric tons (7) Grade (8)
Address (9)	City (10)	State(11) Zip (12)



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

February 16, 2010

Subject: 2009 Recycled-Content Newsprint Certification

Dear Newsprint Consumer:

This is a courtesy reminder that your 2009 Newsprint Consumer Certification is due to the Recycled-Content Newsprint Program by **March 1, 2010**.

Under California's Recycled-Content Newsprint (RCN) Program, every commercial printer and publisher doing business in California is required to certify its annual use of newsprint for printing (not for packaging or maintenance purposes). We encourage you to submit your certification on time as failure to do so may result in a fine of \$500 to \$1,000 (per California Code of Regulations Title 14 Section 17974).

If you have recently mailed your certification, please ignore this reminder. If you need another copy of the packet we sent in January, however, or feel that your company is not subject to this certification requirement, please contact us immediately. You can also access the Newsprint Consumer Certification Form 430 electronically, and find more information on the program, at www.calrecycle.ca.gov/BuyRecycled/Newsprint/.

When you have completed the certification, submit it by fax to (916) 319-7779 or by mail to the program's direct address as follows (not to the general headquarters address above):

**Department of Resources Recycling and Recovery
Newsprint Certification Program – Attn: G. Pfof
P.O. Box 4025, MS 10-A-17
Sacramento, CA 95812-4025**

If you have any questions about the RCN Program requirements or how to complete the RCN certification form, please contact Georgianna Pfof at (916) 324-3474 or Georgianna.Pfof@calrecycle.ca.gov, or me at (916) 341-6475 or Kathy.Marsh@calrecycle.ca.gov.

Thank you in advance for your timely response.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen Marsh".

Kathleen Marsh, Supervisor
Minimum Content Compliance Section

cc: Georgianna Pfof, RCN Program Coordinator





DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

April 1, 2010

Subject: 2009 Recycled-Content Newsprint Certification – PAST DUE

Dear Publisher:

We have not yet received your 2009 Newsprint Consumer Certification which was due to the Recycled-Content Newsprint Program by March 1, 2010.

Under California's Recycled-Content Newsprint (RCN) Program, every commercial printer and publisher doing business in California is required to certify its annual use of newsprint (for printing, not for packaging or maintenance purposes). Failure to file the annual certification so that we receive it by **April 14, 2010** will result in a civil penalty assessment of \$500. Subsequent delays (i.e., if we receive the certification after **May 30, 2010**) will result in a penalty of \$1,000 (California Code of Regulations Title 14 Section 17974).

If you have recently mailed your certification, or need another copy of the packet we sent in January, please call or e-mail to let us know. (You can also access the Newsprint Consumer Certification form electronically, and find more program information at www.calrecycle.ca.gov/BuyRecycled/Newsprint/.) If you feel that your company is not subject to this certification requirement, however, please contact us immediately in writing by fax or e-mail.

When you have completed the certification, please submit it by fax to (916) 319-7779 or by mail (in time to be received here on or before April 14) to the program's direct address as follows (not to the general headquarters address above):

Department of Resources Recycling and Recovery
Newsprint Certification Program – Attn: G. Pfof
P.O. Box 4025, MS 10-A-17
Sacramento, CA 95812-4025

If you have any questions about the RCN Program requirements or how to complete the RCN certification form, please contact Georgianna Pfof at (916) 324-3474 or Georgianna.Pfof@calrecycle.ca.gov, or me at (916) 341-6475 or Kathy.Marsh@calrecycle.ca.gov. Thank you for your cooperation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen Marsh".

Kathleen Marsh, Supervisor
Minimum Content Compliance Section

cc: Georgianna Pfof, RCN Program Coordinator





DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

April __, 2010 [VERSION FOR THOSE NOT YET RECEIVED]

[firm]

Subject: Payment of Civil Penalties
Invoice # _____

Dear _____:

Under California's Recycled-Content Newsprint (RCN) Program, every commercial printer and publisher doing business in California is required to certify its annual use of newsprint to the State (Public Resources Code Section 42750 et seq.). Printers and publishers filing the certification 45 days late will be assessed a \$500 civil penalty, and those filing more than 90 days late or not at all will be assessed a \$1,000 civil penalty (California Code of Regulations Title 14 (14 CCR) Section 17974).

As we notified your firm by letters (January 6, 2010, February 16, 2010, and April 1, 2010) and courtesy e-mail reminders, the 2009 certifications were due March 1, 2010. We had not received your certification as of April 14, 2010, so the \$500 penalty is now due pursuant to the program regulations (14 CCR Section 17974(b)(1)).

Please remit payment in the amount due within 30 days from the date of this letter. Please reference the invoice number on your check and include a copy of the invoice with your payment.

In addition, please submit your Newsprint Consumer Certification to the program staff as soon as possible to avoid additional penalties. The form is available electronically at www.calrecycle.ca.gov/BuyRecycled/Newsprint/. You may fax the completed certification to (916) 319-7779 or mail it to the program's direct address as follows:

Department of Resources Recycling and Recovery
Newsprint Certification Program - Attn: G. Pfost
P.O. Box 4025, MS 10-A-17
Sacramento, CA 95812-4025

If you wish to appeal this penalty assessment, you must do so in writing within ten (10) working days of receipt of this letter. Address your appeal to:

Trevor O'Shaughnessy, Manager
Department of Resources Recycling and Recovery
Jurisdiction & Minimum Content Compliance Branch
P.O. Box 4025, MS 10-A-17
Sacramento, CA 95812-4025



Thank you for your cooperation. If you have questions about the payment process, please contact me at (916) 341-6191. If you have questions about completing the Newsprint Certification, please contact Georgianna Pfof at (916) 324-3474 or Georgianna.Pfof@calrecycle.ca.gov, or Kathleen Marsh at (916) 341-6475 or Kathy.Marsh@calrecycle.ca.gov.

Sincerely,

Keron Weisbart
Accounting Officer
Financial Assistance Branch

Enc: Invoice

cc: Case file
Georgianna Pfof, RCN Program Coordinator
Kathleen Marsh, Supervisor, Minimum Content Compliance Section
Trevor O'Shaughnessy, Manager, Jurisdiction & Minimum Content Compliance Branch

Bcc: Lorraine Van Kekerix, Chief, Compliance Evaluation and Enforcement Division